

Passenger Transport (Bus Services) Amendment (Operators of Bus Services) Regulation 2005

under the

Passenger Transport Act 1990

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Passenger Transport Act 1990*.

JOHN WATKINS, M.P., Minister for Transport

Explanatory note

The objects of this Regulation are the following:

- (a) to prescribe the criteria to be met by applicants for accreditation to operate a bus service under the *Passenger Transport Act 1990*,
- (b) to prescribe certain conditions that such accreditation is subject to,
- (c) to prescribe certain requirements in relation to the operation of a bus service (for example, the requirement that security cameras and alarm systems be installed in buses by 1 July 2006).

This Regulation also makes miscellaneous amendments to certain existing provisions of the *Passenger Transport (Bus Services) Regulation 2000.*

This Regulation also prescribes the expiry dates of the operators' accreditations that were in force on 1 September 1997 (the commencement date of the *Passenger Transport Amendment Act 1997*) and were preserved by a savings and transitional provision (clause 8 of Schedule 3 to the *Passenger Transport Act 1990*).

This Regulation is made under the *Passenger Transport Act 1990*, including section 63 (the general regulation-making power), clause 2 of Schedule 3 to the Act (the power to make regulations of a savings or transitional nature) and the sections specifically mentioned in the Regulation.

2005 No 237 Passenger Transport (Bus Services) Amendment (Operators of Bus Services) Regulation 2005

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Passenger Transport Act 1990

Name of Regulation

This Regulation is the Passenger Transport (Bus Services) Amendment (Operators of Bus Services) Regulation 2005.

Commencement 2

This Regulation commences on 1 July 2005.

3 Amendment of Passenger Transport (Bus Services) Regulation 2000

The Passenger Transport (Bus Services) Regulation 2000 is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 4 Definitions

Insert in alphabetical order:

approved, in relation to a security camera system or a duress alarm system, means complying with requirements established for the time being by the Director-General by order published in the Gazette.

Corporations Act means the Corporations Act 2001 of the Commonwealth.

fleet, in relation to a bus service, means the vehicles used to provide the service.

security camera system means a system that records images of persons in or about a bus.

[2] Clauses 5A and 5B

Insert before clause 6:

5A Criteria to be met by applicants for accreditation to carry on bus services

- (1) An applicant for accreditation under Division 1 of Part 2 of the Act to carry on a bus service must meet, to the satisfaction of the Director-General, the criteria set forth in this clause.
- (2) If the applicant is a corporation, the directors or managers of the corporation who are nominated as designated directors or managers under section 8 of the Act must meet, to the satisfaction of the Director-General, the criteria set forth in this clause (other than the criteria specifically to be met by corporation applicants).

(3) Applicant to be of good repute

The applicant must be of good repute. Evidence of the applicant's good repute is to be provided in the form of references from 2 persons (being persons of any class approved by the Director-General) who have known the applicant for at least 2 years.

(4) Applicant to be fit and proper person to carry on bus services

The applicant must be a fit and proper person to carry on a bus service. The applicant must declare in writing that the applicant is aware of the following:

- accreditation will be refused if the applicant is (a) disqualified, under Part 2D.6 (Disqualification from managing corporations) of the Corporations Act, from managing corporations,
- (b) accreditation may be refused if the applicant (or a director or manager of an applicant corporation) has been the subject of proceedings under section 588G (Director's duty to prevent insolvent trading by company) or 592 (Incurring of certain debts; fraudulent conduct) of the Corporations Act,
- (c) if the applicant:
 - is the director of a company that has been, or is in the course of being, wound up under Part 5.4 (Winding up in insolvency) of the Corporations Act, or
 - (ii) discloses any convictions or charges in accordance with subclause (5),

the Director-General may, for the purpose of determining the applicant's fitness to be an accredited bus operator, cause any investigation that the Director-General considers appropriate to be made into the winding up, conviction or charge concerned.

- (5) The applicant must give the Director-General written notice of the following:
 - full details of all offences of which the applicant has been convicted (in any jurisdiction) at any time during the 5 years immediately preceding the date of the application,
 - full details of all alleged offences with which the applicant (b) has been charged (in any jurisdiction) but only if, as at the date of the application, proceedings are pending in respect of the charge.
- If there are no convictions or pending proceedings against the (6) applicant (as referred to in subclause (5)), the applicant must give the Director-General a written statement to that effect.
- Applicant to be competent to carry on bus services (7)

The applicant must demonstrate that the applicant has the necessary knowledge and competence to carry on a bus service. In particular, the applicant must:

satisfy the Director-General as to the applicant's knowledge of the following:

- (i) the relevant provisions of the Act and this Regulation,
- (ii) other laws relating to traffic,
- (iii) the relevant provisions of the *Occupational Health* and Safety Act 2000, and
- (b) undertake and successfully complete (or pass an examination in respect of) such course relating to the operation of bus services as is approved by the Director-General and conducted by a person or body so approved.

(8) Applicant to be financially capable of carrying on bus services

The applicant must be financially capable of carrying on a bus service. Evidence of the applicant's financial standing is to be provided in the form of a signed statement from a qualified accountant (on the accountant's business letterhead) containing the following:

- (a) a report on the applicant's financial capacity to carry on bus services, with specific reference to the applicant's financial ability to meet the requirements of this Regulation and other relevant laws as to:
 - (i) vehicle maintenance and roadworthiness, and
 - (ii) the safety of drivers, passengers and the public, and
 - (iii) the operation of a business,
- (b) a statement specifying the number of buses that, in the opinion of the accountant, can be accommodated by the bus services proposed to be carried on by the applicant,
- (c) if the applicant is a corporation—a statement of the accountant's opinion as to the solvency and general financial standing of the corporation.

(9) Applicant to have access to maintenance facilities for buses

The applicant must have access to adequate maintenance facilities for the vehicles intended to be used to provide the bus service. The applicant must provide the Director-General with the following:

- (a) details of the premises at which the buses will normally be kept when not in use,
- (b) details of the premises to be used for the maintenance and repair of the vehicles,

- a copy of an approval from the relevant council to carry out (c) each of the activities referred to in paragraphs (a) and (b) at the premises concerned.
- Subclause 9 (c) does not apply in the case of an application for (10)renewal of accreditation by a person who is an accredited operator on the commencement of this clause.
- (11)In this clause:

qualified accountant means:

- a Certified Practising Accountant member of CPA Australia, New South Wales Division, or
- a member of the Institute of Chartered Accountants in (b) Australia, New South Wales Branch, who holds a Certificate of Public Practice issued by that Institute, or
- a member of the National Institute of Accountants who holds a Public Practice Certificate issued by that Institute.

5B Conditions of accreditation to carry on bus services

The conditions set forth in this clause are prescribed for the purposes of section 9B (1) (a) of the Act (that is, they are conditions to which an accreditation to carry on bus services is subject).

(2) Vehicle registration and road worthiness

The operator of a bus service must ensure that the vehicles used to provide the bus service at all times meet the requirements of the law as to registration and vehicle safety and roadworthiness.

(3) Vehicle insurance

The operator of a bus service must (unless otherwise advised by written notice of the Director-General) maintain a policy of insurance providing cover of at least \$5,000,000 for each bus used in the service against liability in respect of damage to property caused by or arising out of the use of the bus.

The policy of insurance must be issued by a corporation (4) authorised under the Insurance Act 1973 of the Commonwealth to carry on insurance business.

Vehicle maintenance

The operator of a bus service must not carry out maintenance on, or repairs to, a bus, and must not permit any other person to do so, unless the person carrying out the maintenance or repairs is

licensed under the *Motor Vehicle Repairs Act 1980* to carry out the work concerned.

- (6) Subclause (5) applies even if the person who is to carry out the work concerned is exempted under section 5 of the *Motor Vehicle Repairs Act 1980* from the operation of all or any of the provisions of that Act.
- (7) The operator of a bus service must have, and adhere to, a vehicle maintenance plan that:
 - (a) is consistent with the bus manufacturer's maintenance standards, and
 - (b) specifies the steps to be taken to ensure that the buses are roadworthy, and
 - (c) specifies the way in which the buses are to be maintained, and
 - (d) specifies the way in which defects are to be recorded and rectified, and
 - (e) is capable of being audited.

(8) Cleaning of buses

The operator of a bus service must maintain a cleaning program so as to ensure that the interior, exterior and fittings (including seats, seat covers and floor covers and any device that is required by or under the Act to be fitted to the bus) of the bus are clean, undamaged and in good condition.

(9) Changes to information provided

The operator of a bus service must notify the Director-General in writing of any of the following changes within the time specified in relation to the change:

- (a) a change of address of the premises from which the bus service is carried on—no later than 7 days after the change,
- (b) a change of address of the premises at which the buses are kept—no later than 7 days after the change.

(10) Management of day-to-day operation of bus services provided by corporation

If the operator of a bus service is a corporation, it must not suffer or permit any person other than a designated director or manager to have management of the day-to-day operations of the bus services provided by the corporation (except for a person appointed, under any law, to manage the affairs of the corporation).

2005 No 237 Passenger Transport (Bus Services) Amendment (Operators of Bus Services) Regulation 2005

Schedule 1 Amendments

Clause 10 [3]

Omit the clause. Insert instead:

10 **Driving of buses**

The operator of a bus service must not permit a person to drive any bus in the course of providing the service unless satisfied that the person is the holder of:

- an appropriate authority, and
- an appropriate licence under the Road Transport (Driver Licensing) Act 1998.

Maximum penalty: 10 penalty units.

Clause 11 [4]

Omit the clause. Insert instead:

11 Records in relation to the operation of a bus service

- The operator of a bus service must keep a written record of the following particulars for each person who drives a bus in connection with the service:
 - the person's full name and residential address,
 - (b) the dates and times during which the bus was driven by the person,
 - the person's driver licence details, including its number (c) and expiry date,
 - the person's driver's authority number (that is, the number allocated by the Director-General and displayed on the front of the person's driver's authority card).

Maximum penalty: 10 penalty units.

- A person who is or has been the operator of a bus service: (2)
 - must keep in the English language any record required to be kept by the person under the Act or this Regulation, and
 - except where otherwise provided, must retain the record (b) for a period of not less than 5 years after the date of the last entry in it, and
 - must, on demand by an authorised officer, produce the (c) record for inspection, and

(d) must, if required by the Director-General in writing to do so, deliver the record to the Director-General when required.

Maximum penalty: 10 penalty units.

(3) The records kept under this clause must be capable of being audited.

Maximum penalty: 10 penalty units.

(4) Subclause (2) (a) does not prevent a person from keeping a record referred to in that paragraph in a language other than English if the record is also kept in the English language.

[5] Clause 12A Operator must notify test results

Omit "as soon as practicable" from clause 12A (1).

Insert instead "within forty-eight hours".

[6] Clauses 12B-12O

Insert after clause 12A:

12B Management information system

- (1) The operator of a bus service must maintain the following records:
 - (a) a fleet register that includes the vehicle identification number, fleet number (if allocated) and registration details of each vehicle in the fleet,
 - (b) a register of insurance details for each vehicle in the fleet,
 - (c) maintenance records for each vehicle in the fleet,
 - (d) records under the Roads and Traffic Authority's Heavy Vehicle Inspection Scheme in relation to each vehicle in the fleet,
 - (e) copies of drivers' vehicle defect reports,

Note. See clause 12C for the requirement for these reports.

- (f) a register of reports of accidents involving vehicles in the fleet.
- (g) details of accidents involving vehicles in the fleet,
- (h) a complaints register detailing all complaints received in respect of the bus service and the action taken in respect of each complaint.

Maximum penalty: 5 penalty units.

The records kept under this clause must be capable of being (2) audited.

Maximum penalty: 5 penalty units.

In this clause: (3)

> vehicle identification number, in relation to a motor vehicle, means the number allocated to the vehicle in accordance with the requirements of the Australian Design Rules under the *Motor* Vehicle Standards Act 1989 of the Commonwealth.

12C Vehicle defect reports

The operator of a bus service must make available in respect of each bus in the fleet a blank vehicle defect form for each day that the bus is used in the provision of the service.

Maximum penalty: 5 penalty units.

(2) Each driver of the bus must fill in the form as appropriate at the end of the driver's period of driving the bus.

Maximum penalty: 5 penalty units.

The completed form must be returned to the operator of the bus (3) service, in accordance with the relevant procedures established by that operator, as soon as practicable after the bus's last journey on the day to which the form relates (or, in the case of a service that extends beyond midnight on any day, on the following day).

12D Security cameras

(1) An operator of a bus service who carries on a regular passenger service partly or wholly within the Metropolitan, Newcastle or Wollongong transport district or within the City of Gosford or the Wyong local government area must ensure that each bus in the fleet is fitted with an approved security camera system by 1 July 2006.

Maximum penalty: 10 penalty units.

- (2) A person must not deliberately:
 - interfere with any part of an approved security camera system fitted to a bus, or
 - cause or permit any such interference,

in such a manner as to prevent or impede the proper working of the system.

Maximum penalty: 10 penalty units.

Schedule 1 has effect in relation to any security camera system (3) with which a bus is fitted (whether or not pursuant to this clause).

(4) Nothing in this clause prevents any authorised officer or other person authorised by the Director-General for the purpose of this clause from carrying out an inspection, check or other test of, or performing any proper function in relation to, a security camera system.

12E Duress alarm system

(1) An operator of a bus service who carries on a regular passenger service partly or wholly within the Metropolitan, Newcastle or Wollongong transport district or within the City of Gosford or the Wyong local government area must ensure that each bus in the fleet is fitted with an approved duress alarm system by 1 July 2006.

Maximum penalty: 10 penalty units.

- (2) A person must not deliberately:
 - (a) interfere with any part of an approved duress alarm system fitted to a bus, or
 - (b) cause or permit any such interference,

in such a manner as to prevent or impede the proper working of the system.

Maximum penalty: 10 penalty units.

- (3) Nothing in this clause prevents any authorised officer or other person authorised by the Director-General for the purpose of this clause from carrying out an inspection, check or other test of, or performing any proper function in relation to, a duress alarm system.
- (4) In this clause:

duress alarm system means an alarm by which the driver of a bus can notify the driver's whereabouts to the depot at which the bus is normally based from anywhere in the bus's area of operation.

12F Manifest of passengers

- (1) The operator of a long-distance, tourist or charter service that is provided by means of buses must provide to the driver of each bus concerned, for each day that the bus is used to provide the service, a manifest of passengers that complies with this clause. Maximum penalty: 5 penalty units.
- (2) The manifest must contain the following information in respect of each passenger:
 - (a) the passenger's name,

Schedule 1 Amendments

- contact details (such as an address and telephone number) (b) for the passenger,
- the date and time that the passenger is due to board the bus, (c)
- (d) the seat number (if any) allocated to the passenger.
- (3) The driver of the bus must return the manifest to the operator as soon as practicable after the completion of the relevant journey. Maximum penalty: 5 penalty units.
- (4) The operator of the service must retain each manifest for a period of 60 days after the completion of the journey concerned. Maximum penalty: 5 penalty units.

12G Operator training

(1) An accredited bus operator must, whenever reasonably required to do so by the Director-General, undertake and satisfactorily complete (or pass an examination in respect of) such course, or refresher course, relating to the operation of bus services as is approved by the Director-General and conducted by a person or body so approved.

Maximum penalty: 5 penalty units.

- The Director-General may: (2)
 - suspend an accreditation issued to an accredited bus operator pending the satisfactory completion of (or the passing of an examination in respect of) such a course, or
 - determine (either generally or in a particular case) that an (b) accreditation issued to an accredited bus operator will be renewed only on the satisfactory completion of (or on the passing of an examination in respect of) such a course.

12H Information in buses

The operator of a bus service must ensure that information is (1) displayed inside the bus in accordance with this clause while the bus is being used to provide the service.

Maximum penalty: 5 penalty units.

- The following information must be displayed: (2)
 - a summary of the rights and obligations of passengers,
 - brief details (including a telephone number) as to how (b) complaints relating to the bus services might be made.

- (3) The information:
 - (a) must be approved by the Director-General, and
 - (b) must be displayed in a position where it may easily be read by passengers.

12I Destination signs on buses

(1) The operator of a bus service must not use a bus to conduct a regular passenger service unless the bus displays a destination sign in accordance with this clause.

Maximum penalty: 5 penalty units.

- (2) The sign:
 - (a) must be displayed on the front of the bus, and
 - (b) must show the route number and the destination of the bus, and
 - (c) must be capable of being illuminated.

12J Notification of accidents and incidents

- (1) An operator of a bus service who becomes aware that a vehicle being used to provide the service has been involved in an accident or incident must notify the Director-General (or a nominee of the Director-General) of the accident or incident, in accordance with this clause, if the accident or incident:
 - (a) resulted in any injury to any person, or
 - (b) prevented the vehicle from continuing its journey, or
 - (c) is, in the reasonable opinion of the operator of the service, otherwise likely to arouse serious public concern.

Maximum penalty: 5 penalty units.

- (2) A notification required by this clause:
 - (a) must be given as soon as practicable after the operator becomes aware of the accident or incident concerned, and
 - (b) must contain reasonable details of the accident or incident.

12K Seat belts in buses

(1) The operator of a bus service must take reasonable steps to ensure that every passenger on a bus operated by the operator is made aware that the passenger is required to wear a seatbelt (if fitted) in the bus unless the passenger is exempt from that requirement under rule 267 of the *Australian Road Rules*.

Maximum penalty: 10 penalty units.

- Steps that may be taken under subclause (1) include (but are not (2) limited to) the following:
 - putting up signs inside the bus,
 - arranging for the driver of the bus to notify passengers (for (b) example, through a public address system on the bus or by means of a recorded audio message or video).

12L **Audit**

- The Director-General may require an operator of a bus service, at (1) regular intervals or at any particular time, to undertake (at the operator's expense) an audit of such of the operator's records and bus operations as the Director-General may specify.
- (2) An operator of whom a requirement is made under subclause (1):
 - must cause the audit to be carried out in accordance with the Director-General's requirements, and
 - must submit the audit to the Director-General within the period, or by the date, specified by the Director-General.

Maximum penalty: 5 penalty units.

The Director-General may require any one or more of the audits (3) under this clause to be carried out by an auditor, or by an auditor from a class, approved by the Director-General.

12M Lost property

The operator of a bus service must develop and implement responsible procedures, capable of being audited, for dealing with any article found in, or handed in by passengers on, a bus, including (but not limited to) procedures involving:

- the keeping of registers of the following:
 - articles found or handed in, (i)
 - enquiries as to lost property, and
- the keeping of written records of when and how articles found or handed in are returned or disposed of.

Maximum penalty: 5 penalty units.

12N Renewal of accreditation

For avoidance of doubt, the accreditation under Division 1 of Part 2 of the Act of an operator of a bus service can be renewed only if the renewal fee referred to in section 9A (1) of the Act is paid before the end of the period during which the accreditation is in force.

(2) This clause is subject to clause 12O in respect of an existing accreditation (within the meaning of that clause) of an operator of a bus service.

120 Existing accreditations

- (1) For the purposes of clause 8 of Schedule 3 to the Act, the date prescribed in respect of an existing accreditation of an operator of a bus service is as set out in this subclause and subclause (2):
 - (a) the prescribed date in relation to a holder of an existing accreditation who applies for renewal of the accreditation, and pays the renewal fee, before 1 October 2005 is 31 January 2006, and
 - (b) the prescribed date in relation to a holder of an existing accreditation who applies for renewal of the accreditation, and pays the renewal fee, on or after 1 October 2005 but before 1 January 2006 is 31 March 2006, and
 - (c) the prescribed date in relation to a holder of an existing accreditation who applies for renewal of the accreditation, and pays the renewal fee, on or after 1 January 2006 but before 1 April 2006 is 30 June 2006.
- (2) The prescribed date in relation to a holder of an existing accreditation who does not apply for renewal of the accreditation, or pay the renewal fee, as set out in subclause (1), is 30 June 2006.
- (3) The holder of an existing accreditation referred to in subclause (2) is not eligible to apply for renewal of the accreditation concerned, but may apply for a new accreditation.
- (4) In this clause:

existing accreditation means an accreditation referred to in clause 8 of Schedule 3 to the Act.

renewal fee means the fee referred to in section 9A of the Act.

[7] Clause 48 Penalty notice offences

Omit "Schedule 1" wherever occurring. Insert instead "Schedule 2".

Schedule 1 Amendments

Schedule 1 [8]

Insert before Schedule 1 (Penalty notice offences):

Schedule 1 Approved security camera systems

(Clause 12D)

1 **Definitions**

In this Schedule:

authorised purpose, in relation to the use of a video recording made by a security camera system, means the purpose of, or any purpose in connection with, any of the following:

- the prosecution of, or the issue of a penalty notice in respect of, an offence committed in or about a bus,
- ensuring an operator's compliance with the operator's conditions of accreditation,
- ensuring a driver's compliance with the driver's conditions (c) of authorisation,
- ensuring a passenger's compliance with any approved (d) scheme of subsidised travel (as referred to in section 39 of the Transport Administration Act 1988).

video recording includes:

- any electronically stored information from which a recorded image can be generated, and
- any print-out or other reproduction of the recorded image.

2 Use of recording for unauthorised purpose

A person must not use a video recording made by a security camera system for a purpose other than an authorised purpose. Maximum penalty: 20 penalty units.

Presence of camera in bus to be indicated

The operator of a bus service must ensure that signs are conspicuously placed within and on the outside of a bus that is fitted with a security camera system, advising persons that they may be under video surveillance while in or about the bus.

Maximum penalty: 5 penalty units.

4 Storage of recordings made by security camera

- (1) The operator of a bus service must cause:
 - (a) such security safeguards as the Director-General may specify, and
 - (b) such other security safeguards as are reasonable in the circumstances.

to be taken, to ensure that any video recordings made by a security camera system are protected against misplacement and against use for unauthorised purposes, until disposed of in accordance with clause 5.

Maximum penalty: 5 penalty units.

(2) The Director-General may, by notice in writing to the operator of a bus service, specify reasonable security safeguards for the purposes of subclause (1) (a).

5 Disposal of recordings made by security camera

(1) The operator of a bus service must cause any video recording made by a security camera system to be disposed of in accordance with subclause (2) within 30 days after the recording was made.

Maximum penalty: 5 penalty units.

- (2) The recording may be disposed of by destroying it by deletion or otherwise or, if it is to be used for an authorised purpose, by giving it to:
 - (a) a police officer, or
 - (b) an officer of the Ministry of Transport authorised by the Director-General to receive it.
- (3) It is the duty of the Commissioner of Police or the Director-General (as the case requires) to ensure the destruction of any video recording that was given to a police officer or to an officer of the Ministry of Transport but which is no longer to be used for an authorised purpose.
- (4) Subclause (1) does not apply in respect of a video recording made during the installation or testing of the security camera.

[9] Schedule 1 Penalty notice offences

Renumber the Schedule as Schedule 2.

2005 No 237
Passenger Transport (Bus Services) Amendment (Operators of Bus Services) Regulation 2005

Schedule 1 Amendments

[10] Schedule 2 (as renumbered), Part 2

Omit the matter relating to clauses 10, 11 and 12. Insert instead:

Clause 10	\$300
Clause 11 (1)	\$200
Clause 11 (2) (a)	\$200
Clause 11 (2) (b)	\$200
Clause 11 (2) (c)	\$200
Clause 11 (2) (d)	\$200
Clause 11 (3)	\$200

[11] Schedule 2 (as renumbered), Part 2

Insert in appropriate order:

Clause 12B (1) (a)	\$200
Clause 12B (1) (b)	\$200
Clause 12B (1) (c)	\$200
Clause 12B (1) (d)	\$200
Clause 12B (1) (e)	\$200
Clause 12B (1) (f)	\$200
Clause 12B (1) (g)	\$200
Clause 12B (1) (h)	\$200
Clause 12B (2)	\$200
Clause 12C (1)	\$200
Clause 12C (2)	\$200
Clause 12D (1)	\$300
Clause 12D (2)	\$300
Clause 12E (1)	\$300
Clause 12E (2)	\$300
Clause 12F (1)	\$200
Clause 12F (3)	\$200
Clause 12G (1)	\$300

Passenger Transport (Bus Services) Amendment (Operators of Bus Services) Regulation 2005

Amendments Schedule 1

(Clause 12H (1)	\$150
(Clause 12I (1)	\$200
(Clause 12J (1)	\$200
(Clause 12K	\$300
(Clause 12L (2)	\$200
(Clause 12M	\$150
;	Schedule 1, clause 2	\$500
;	Schedule 1, clause 3	\$200
;	Schedule 1, clause 4 (1)	\$200